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EXAMINER

AUGUSTINE, NICHOLAS

ART UNIT

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2179

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/749,813	Applicant(s) MARILA ET AL.	
	Examiner NICHOLAS AUGUSTINE	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- A. This action is in response to the following communications: Amendment filed: 11/24/2008. This action is made **Final**.
- B. Claims 1-29 remain pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-29 are rejected under 35 U.S.C. 102(e) as being unpatentable over Dostie et al. (US Pub 2004/0021691).

As to independent claims 1 and 12, Dostie teaches a device (e.g. method, device, etc), for inputting, comprising: a display (fig. 1); and a memory (fig. 1) comprising a first set of characters of a character set (par.138; default view upon system start up is a English character set laid out on a keyboard), said first set of characters comprising at least two characters (par.138 and 198), and a second set of characters of said character set (fig.

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3, highlighted characters "TYSD"; par [0080], lines 12-21; is a separate set of characters), said second set of characters comprising at least two characters (fig. 3), wherein the characters in the first set of characters are statistically more likely to be selected in successive order than the characters in the second set of characters independently of user input (par.64-65; par.85; in paragraph 138 it is explained of the English set being displayed with the rapid navigation not turned on (second set/ highlighted character set)); wherein said display is configured to display, for selection of which character to input, the first set of characters only (par.64; wherein the characters of the first set are distinguished separately from the second set; distinguishing in a variety of ways such as (1): highlighting/visual attribute and (2) being displayed in a list separate from qwerty graphic keyboard; par.103).

As to dependent claims 2, 13 and 22, Dostie teaches the device is adapted to select any desired one of the displayed characters if said desired character exists in the displayed first set of characters (fig. 3).

As to dependent claims 3, 14 and 23, Dostie, it appears that if the desired character is not in the displayed first set, the system would display more of the remaining character for selection (par.64).

As to dependent claims 4, 15 and 24, In light of the rejection set forth in claim 3, user may select any desired one of the displayed characters if said desired character exists

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in the displayed second set of characters (par.64).

As to dependent claim 5, Dostie teaches the device of claim 1 comprising a character set switch for replacing the currently displayed set of characters with another set of characters (par.80; changing character sets. par.64; changing set of characters on display of graphic keyboard).

As claim to dependents 6, 17 and 25, Dostie does not specifically in detail mention the device is adapted to cluster, on the display for selection, characters within the first set of characters, so that characters that are statistically more likely to be selected in successive order appear closer to each other than characters that are statistically less likely to be selected in successive order (par.103; shows how characters are arranged in a list which represents set of characters from first set of characters).

As to dependent claims 7, 18 and 26, Dostie teaches the device is adapted to display the characters in the first set of characters on the display in QWERTY-format (fig.3; par.3).

As to dependent claims 8, 19 and 27, Dostie does not specifically in detail teach the device is adapted to display the characters in the first set of characters on the display in alphabetical order (figure 29; list of characters “d,k,n,r,v” are in alphabetical order).

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As to dependent claim 9, Dostie further teaches the display is a touch-sensitive display (par [0079], lines 1-6).

As to dependent claims 10 and 16, Dostie further teaches the first set of characters and the second set of characters are based on a specific language used for inputting information (par [0080]).

As to dependent claims 11, 20 and 28, Dostie further teaches the device is embodied as a mobile terminal for a mobile telecommunications system (par [0073], lines 13-20).

As to independent claim 21 (Current Amended), Dostie teaches a computer program product comprising program code stored in a memory (fig. 1, label 16, par [0067], lines 6-20) for generating a virtual keyboard on a display (par [0064], lines 15-24), when said program code is executed by a processor (fig. 1, labels 12, 26; par [0069], lines 1-7) the program code comprising: for defining a first set of characters of a character set comprising at least two characters (par.138; default keyboard having English language character set); for defining a second set of characters of a character set comprising at least two characters (fig. 3, highlighted characters "TYSD"; par [0080], lines 12-21), wherein the characters of the first set of characters are statistically more likely to be selected in successive order than the characters of the second set of characters independently of user input (par.64-65; par.85; in paragraph 138 it is explained of the English set being displayed with the rapid navigation not turned on (second set/

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highlighted character set); program code for displaying for selection of which character to input, the first set of characters only on the display (par.64; wherein the characters of the first set are distinguished separately from the second set; distinguishing in a variety of ways such as (1): highlighting/visual attribute and (2) being displayed in a list separate from qwerty graphic keyboard; par.103).

As to independent claim 29, Dostie teaches a device for inputting information (fig. 1), comprising; means for displaying characters (fig. 1); and means for storing a first set of characters (fig. 1), said first set of characters of a character set comprising at least two characters (par.138; default keyboard having English language character set), and a second set of characters of said character set, said second set of characters comprising at least two characters (fig. 3, highlighted characters "TYSD"; par [0080], lines 12-21), wherein the characters in the first set of characters are statistically more likely to be selected in successive order than the characters in the second set of characters independently of user input (par.64-65; par.85; in paragraph 138 it is explained of the English set being displayed with the rapid navigation not turned on (second set/ highlighted character set); wherein the display is configured to display, for selection of which character to input, the first set of characters only (par.64).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 6, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dostie in view Pu et al. (US Patent 7,152,213), hereinafter "Pu".

As claim to dependents 6, 17 and 25, Dostie does not specifically in detail mention the device is adapted to cluster, on the display for selection, characters within the first set of characters, so that characters that are statistically more likely to be selected in successive order appear closer to each other than characters that are statistically less likely to be selected in successive order;

However, in the same field of virtual keyboard input (Pu: col. 10, lines 55-57), Pu teaches the device is adapted to cluster, on the display for selection, characters within the first set of characters, so that characters that are statistically more likely to be

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selected in successive order appear closer to each other than characters that are statistically less likely to be selected in successive order (col. 4, lines 29-38; col. 2, lines 50-63; fig. 7A- 7C; col. 9, lines 29-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dostie by the device is adapted to cluster, on the display for selection, characters within the first set of characters, so that characters that are statistically more likely to be selected in successive order appear closer to each other than characters that are statistically less likely to be selected in successive order as taught by Pu in order to provide an improved user interface used to input data without the use of a standard keyboard where the data that is entered is selected from a predefined list or group determining by the relative frequency of each valid selection in the predefined list and presenting those valid selections with the highest frequency in a position that minimizes the number keystrokes required for data entry (Pu: col. 2, lines 46-57).

(Note :) It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

Applicant's arguments filed 11/24/2008 have been fully considered but they are not persuasive.

After careful review of the amended claims (given the broadest interpretation) and the remarks provided by the Applicant along with the cited reference(s) the Examiner does not agree with the Applicant for at least the reasons provided below:

A1. Applicant argues that X does not teach wherein the characters in the first set of characters are statistically more likely to be selected in successive order than “he characters in the second set of characters ***independently of user input***. (Emphasis added).

R1. Examiner does not agree, in paragraphs 138 and 198 of X it is evident that there is displayed a default view, graphical keyboard, displayed on the screen upon start of the application/system thus no user input has taken place and the first set of characters are displayed without user input as suggested by the Applicant. Further as described in the specification that there is a form of user input to obtain a display of the second set of characters in such is the same with X, wherein the user inputs a request to the system to start rapid navigation the second set of characters will then be displayed it is only then that user input is required to see the second set. With this understanding it is clear to see that X teaches the immediate claim language as written “wherein the characters in the first set of characters are statistically more likely to be selected in successive order than “he characters in the second set of characters independently of user input”; (default/ startup view of system). The Examiner also would like to note the arguments pertaining to the use of common English language diagrams, in which the current claim language argued against does not expressly have limitations which pertaining to common English language diagrams.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Augustine whose telephone number is 571-270-1056. The examiner can normally be reached on Monday - Friday: 7:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas Augustine/
Examiner
Art Unit 2179
2/12/2009

/Ba Huynh/
Primary Examiner, Art Unit 2179